



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOha15050326
[REDACTED]

JAMAL SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION
Complainant,

v.

[REDACTED],
Respondent.

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission,") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On May 11, 2015, [REDACTED] ("Complainant") filed a Complaint with the Commission against [REDACTED] (individual "Respondent") alleging discrimination on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*). Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether the Respondent unreasonably denied Complainant's request for a reasonable accommodation. In order to prevail, Complainant must show that: 1) she has a disability as defined under the law; 2) Respondent was or should have been aware of Complainant's disability; 3) Complainant requested a reasonable accommodation necessary to afford her an opportunity to use and enjoy the premises; and 4) Respondent unreasonably denied the requested accommodation. It is evident that Complainant has a disability as defined under the law and that Respondent was aware of the need for an accommodation because of the disability. Moreover, Respondent admits that she denied Complainant's request to rent because she uses an emotional support animal.



By way of background and at all times relevant to the Complaint, Complainant maintained a pit bull as an emotional support animal for use during specific situations. On or about February 28, 2015, Complainant and her husband visited Respondent and inquired about a four bedroom home for rent. Upon Complainant's arrival, Respondent asked "you don't have pets, do you?" Evidence shows that Complainant responded, "yes, a dog," at which point Respondent stated that "I don't take dogs because they mark their territory by wetting on the carpets." The next day, on or about March 1, 2015, Respondent called Complainant and inquired about the dog's breed. Once Complainant informed Respondent that she had a pit bull as an emotional support animal, Respondent told her that she was "afraid of pit bulls" and that "it would not be safe for the neighbors, the children at the day care facility, or any other kids that might wonder into the yard." Respondent also told the Commission that she has not "accepted 'any' dogs since 2012" because her best friend's son was attacked by a pit bull. Ultimately, Respondent denied Complainant's request for a reasonable accommodation, depriving Complainant of an opportunity to rent the premises.

Despite Respondent's assertions, there is insufficient evidence to support her contentions. Rather, Respondent admits that Complainant informed her that she utilized the pit bull as an emotional support animal. Further, Complainant has provided medical documentation showing that the emotional support dog "provides significant emotional support" and "ameliorates the severity of symptoms that affect her daily ability to fulfill her responsibilities and goals." While Respondent asserts that she is afraid of pit bulls, Respondent's general fear of pit bulls does not absolve her of the obligation to provide a reasonable accommodation necessary to allow Complainant to enjoy full access and enjoyment of the home in question. Moreover, while Complainant offered to build a fence to assist with Respondent's fears, Respondent refused to permit the accommodation request. Simply stated, no evidence has been provided or uncovered to show that permitting Complainant to have a service animal was unreasonable or would create an undue administrative and financial burden upon the Respondent. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act and/or the Indiana Civil Rights Law occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondent, Complainant, or any aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED], and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed

fifteen (15) days prior to the date of hearing. If at any time following service of this charge Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

October 6, 2015

Date



Jamal L. Smith
Executive Director
Indiana Civil Rights Commission